

Appln No. 10/626,474

Amdt date February 22, 2005

Reply to Office action of November 22, 2004

REMARKS/ARGUMENTS

Claims 1-13 are pending in this application, of which claims 1 and 10 are independent. Claims 1-5 have been amended. Claims 6-13 have been added. The specification and FIGs. 1-3 have been amended for clarity due to inadvertent typographical errors in the reference numbering in the specification and/or the figures. These amendments make the reference numbering in the specification consistent with the reference numbering in the figures and vice versa. The amendments and new claims add no new matter and find full support in the application as originally filed. In view of the above amendments and following remarks, Applicant respectfully requests reconsideration and a timely indication of allowance.

Rejections Under 35 U.S.C. § 102(b)

The Examiner has rejected claims 1, 4 and 5 under 35 U.S.C. § 102(b) as allegedly being anticipated by Bajohr (U.S. Patent No. 693,213). Applicant respectfully traverses this rejection. Claim 1 is directed to a piping clamp for locating a pipe relative to a concrete form comprising a base and a spring clamp extending from the base for engagement with a pipe in a clamping relationship.

Bajohr discloses an anchor fastener for receiving a lightning conductor 5. The fastener includes a main body 1 having fingers 4 extending therefrom to form a socket 2 which receives the lightning conductor 5. As shown in FIG. 1 the fingers 4 are "bent toward each other, and thereby inclose (sic) the conductor for the purpose of holding the same securely in

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position" (FIG. 1; and lines 28-32.) As such, the fingers 4 of Bajohr cannot form a "spring clamp" as claimed since a resiliency in the fingers 4 would prevent the fingers 4 from closing around the lightning conductor 5 as taught by Bajohr. As such, Bajohr teaches against forming a spring clamp, and therefore does not disclose, teach or suggest "a spring clamp extending from the base for engagement with a pipe in a clamping relationship," as is specified by claim 1.

Claim 1 also recites that the base of the piping clamp comprises "a standoff portion **having a lower surface for attachment to an upper surface of the concrete form,**" (emphasis added) wherein the spring clamp extends from the upper portion of the base at a position vertically offset from the lower surface of the standoff portion of the base.

The Examiner contends that shoulders 5 and 6 form the claimed "standoff portion." However, the claimed standoff portion requires a lower surface for attachment to an upper surface of a concrete form, and it is the lower surface of the main body 1 of the fastener of Bajohr that attaches to the upper surface of the wall (not numbered), and not the lower surface of the shoulders 5 and 6. The lower surface of the shoulders 5 and 6 do not attach to the wall. As such, the shoulders 5 and 6 do not "standoff" the main body from the wall, but merely combine with the main body 1 to form a U-shaped channel that receives the wall. As such, Bajohr does not disclose, teach or suggest "a standoff portion having a lower surface for attachment to an upper surface of the concrete form," as specified by claim 1.

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Consequently, for either of the reasons given above, Bajohr does not anticipate claim 1. Claims 4 and 5 depend from claim 1. Claim 1 is now believed to be in condition for allowance over Bajohr. As such, Applicant submits that claims 4 and 5 are also allowable over Bajohr as being dependent from an allowable base claim and for the additional limitations they contain therein. Accordingly, Applicant respectfully requests that the rejection of claims 1, 4 and 5 over Bajohr under 35 U.S.C. § 102(b) be withdrawn.

Rejections Under 35 U.S.C. § 103(a)

The Examiner has rejected claims 2 and 3 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bajohr. Applicant respectfully traverses this rejection. As presented above, Applicant respectfully submits that claim 1 is in condition for allowance over Bajohr. Claims 2 and 3 depend from claim 1. As such, Applicant submits that claims 2 and 3 are also allowable over Bajohr as being dependent from an allowable base claim and for the additional limitations they contain therein. Accordingly, Applicant respectfully requests that the rejection of claims 2 and 3 under 35 U.S.C. § 103(a) be withdrawn.

The Examiner has also rejected claims 1-5 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Behlen (U.S. Patent No. 6,047,515) in view of Ekedal (U.S. Patent No. 5,216,866). Applicant respectfully traverses this rejection. Claim 1 is directed to a piping clamp for locating a pipe relative to a concrete form comprising a base and a spring clamp extending from the base for engagement with a pipe in a clamping

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relationship, wherein the base comprises "a standoff portion **having a lower surface for attachment to an upper surface of the concrete form,**" (emphasis added) and wherein the spring clamp extends from the upper portion of the base at a position vertically offset from the lower surface of the standoff portion of the base.

Behlen discloses an anchor bolt holder 20 having an elongated base plate 34 and a rear plate 94 extending downwardly therefrom. The Examiner contends that the rear plate 94 forms the claimed "standoff portion." However, the claimed standoff portion requires a lower surface for attachment to an upper surface of a concrete form, and it is the lower surface of the elongated base plate 34 of the holder 20 of Behlen that attaches to the top surface 12 of the form 10, and not the lower surface of the rear plate 94. The lower surface of the rear plate 94 does not attach to the top surface 12 of the form 10. As such, the rear plate 94 does not "standoff" the elongated base plate 34 from the top surface 12 of the form 10, but merely combines with the elongated base plate 34 to form an L-shaped channel that receives the wall.

As such, Behlen does not disclose, teach or suggest "a standoff portion having a lower surface for attachment to an upper surface of the concrete form," as specified by claim 1. Ekedal does not make up for this deficiency in Behlen. As a result, Behlen and Ekedal either alone or in combination, do not disclose, teach or suggest "a standoff portion having a lower surface for attachment to an upper surface of the concrete form," as specified by claim 1. Therefore, Behlen and Ekedal do

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not render claim 1 obvious. Claims 2-5 depend from claim 1. Claim 1 is now believed to be in condition for allowance over Behlen and Ekedal. As such, Applicant submits that claims 2-5 are also allowable over Behlen and Ekedal as being dependent from an allowable base claim and for the additional limitations they contain therein. Accordingly, Applicant respectfully requests that the rejection of claims 1-5 over Behlen and Ekedal under 35 U.S.C. § 103(a) be withdrawn.

New Claims

New claims 6-13 have been added. Applicant respectfully submits that claims 6-13 are allowable over the prior art made of record. Note that the claimed "recessed area" in claims 8, 9, 12 and 13 increases the flexibility of the spring clamp and reduces stress in the areas adjoining the spring clamp with the upper portion of the base.

In view of the above amendments and remarks, Applicant respectfully submits that claims 1-13 are in condition for allowance, and a timely indication of allowance is respectfully requested. If there are any remaining issues that can be

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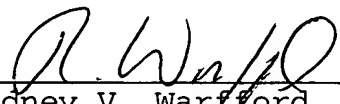
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addressed by telephone, Applicant invites the Examiner to contact the undersigned at the number indicated.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By


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RVW/clv

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Amendments to the Drawings:

The attached sheets of drawings includes amendments to FIGS. 1, 2, and 3. In FIGS. 1, 2 and 3 as originally submitted, reference numeral 128 was inadvertently used to refer to two separate elements in the figures; and reference numeral 126 was similarly inadvertently used to refer to two separate elements in the figures.

As such, FIG. 1 has been amended to replace reference numeral 128 with reference numeral 127; FIG. 2 has been amended to replace reference numeral 126 with reference numeral 125, and to replace the lower occurrence of reference numeral 128 with reference numeral 127; and FIG. 3 has been amended to add reference numeral 127. The attached 3 replacement sheets, which includes amended FIGS. 1, 2, and 3, replace the original sheets including Figs. 1, 2, and 3.

Attachment: Replacement Sheet
 Annotated Sheet Showing Changes

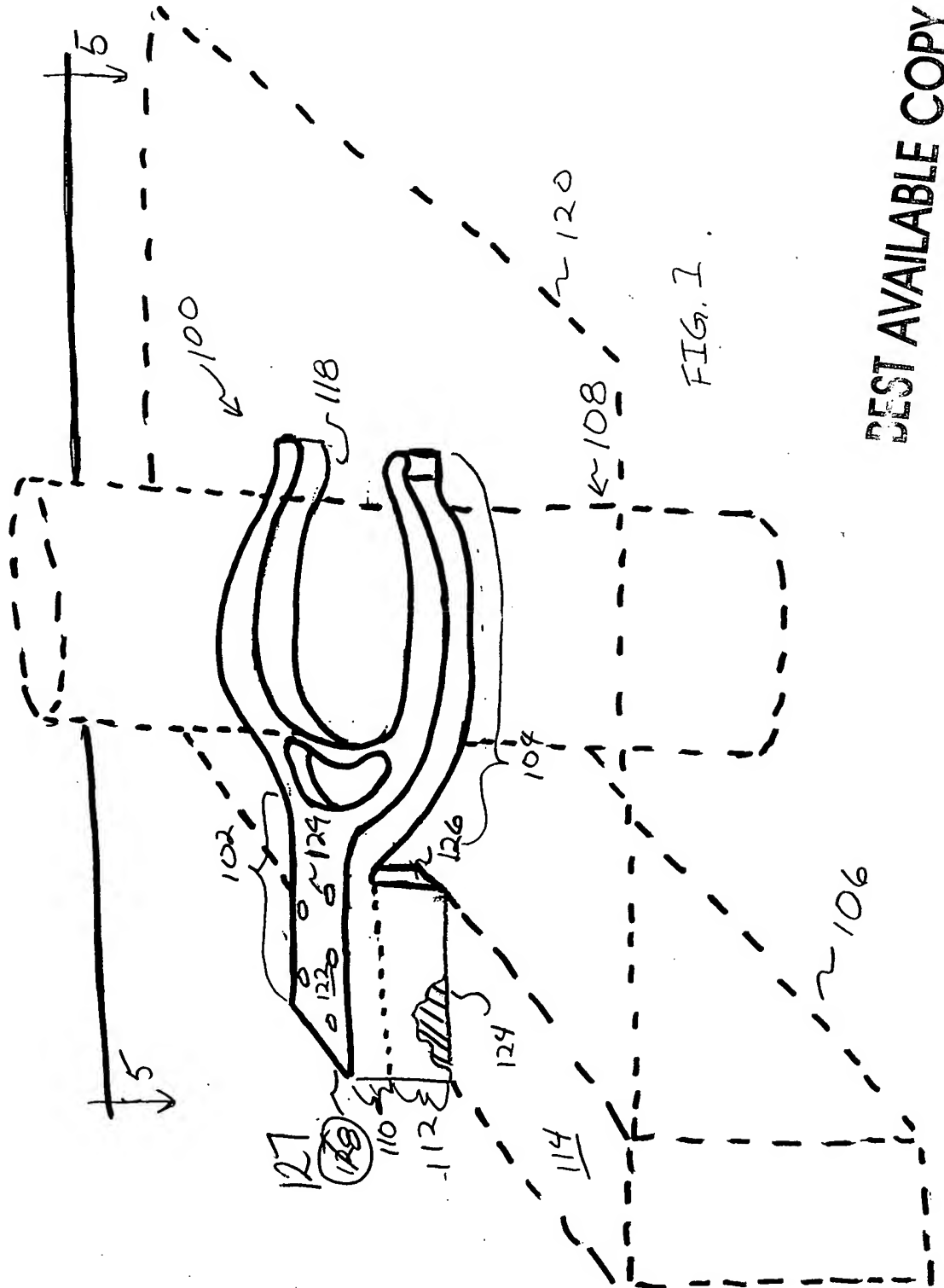


FIG. 1

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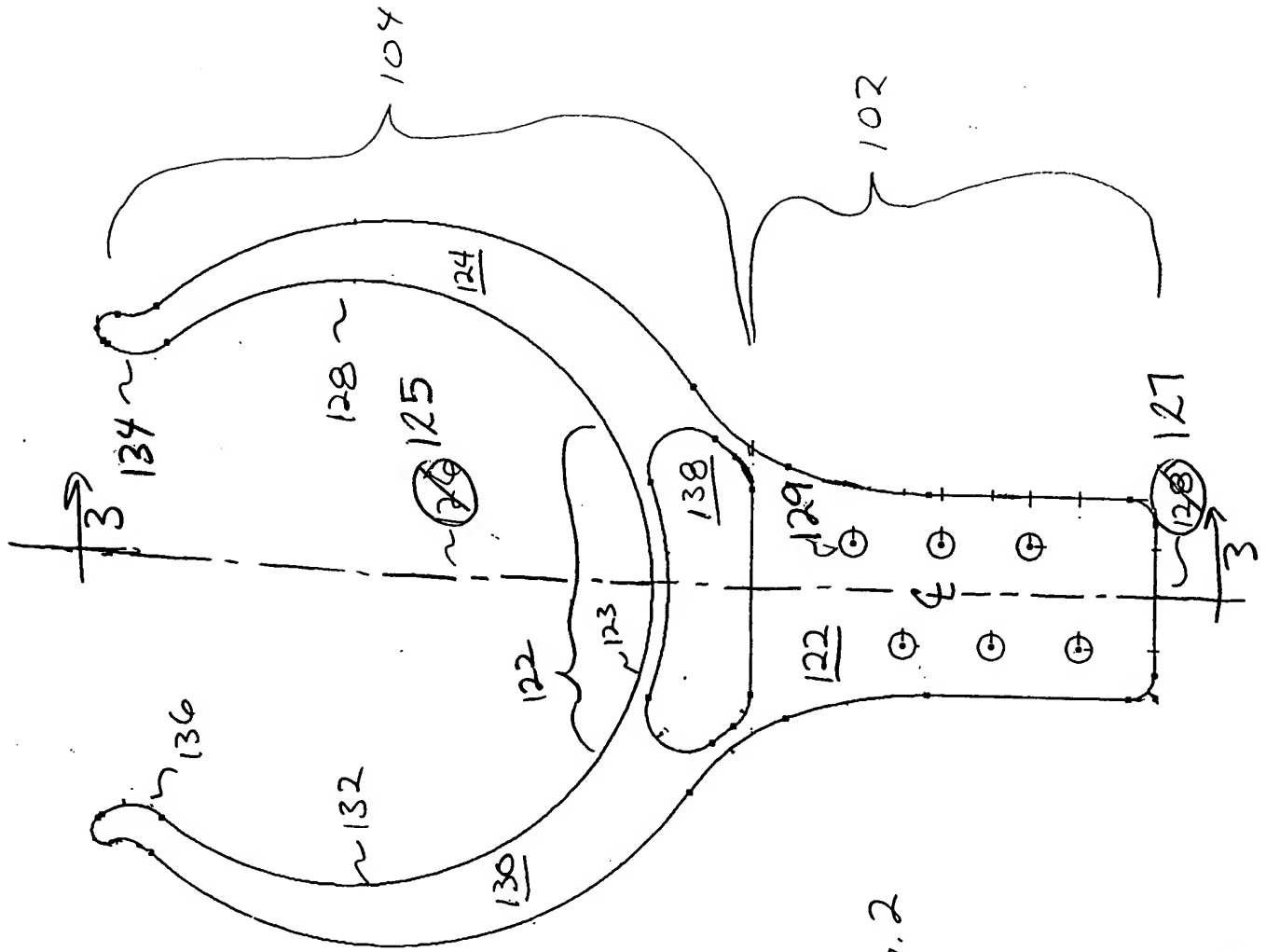


FIG. 2

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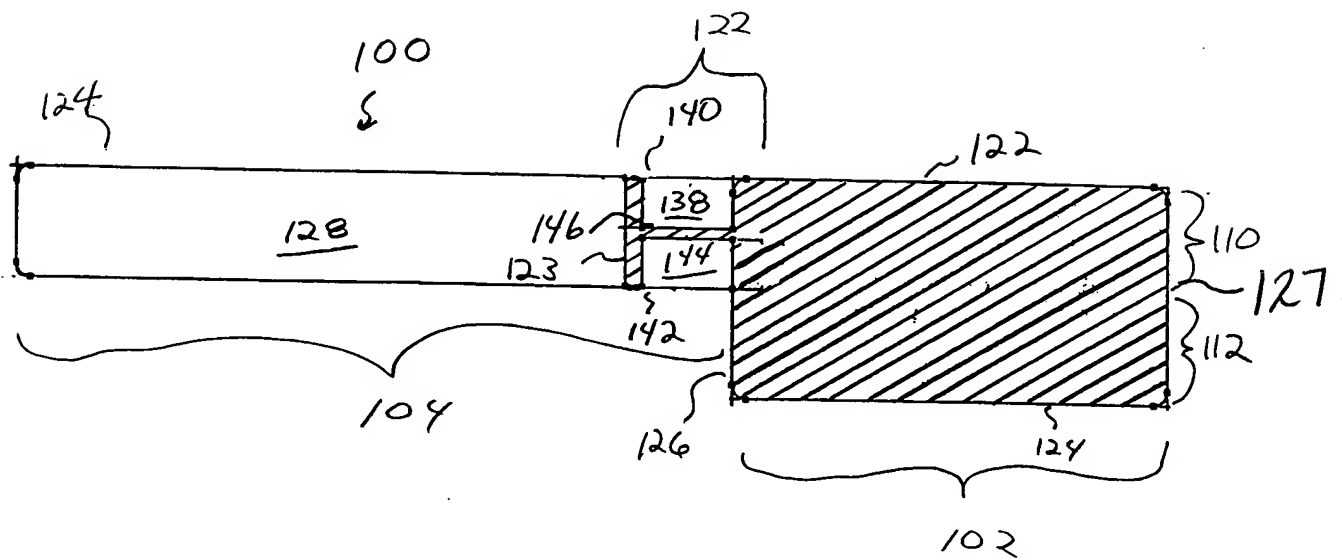
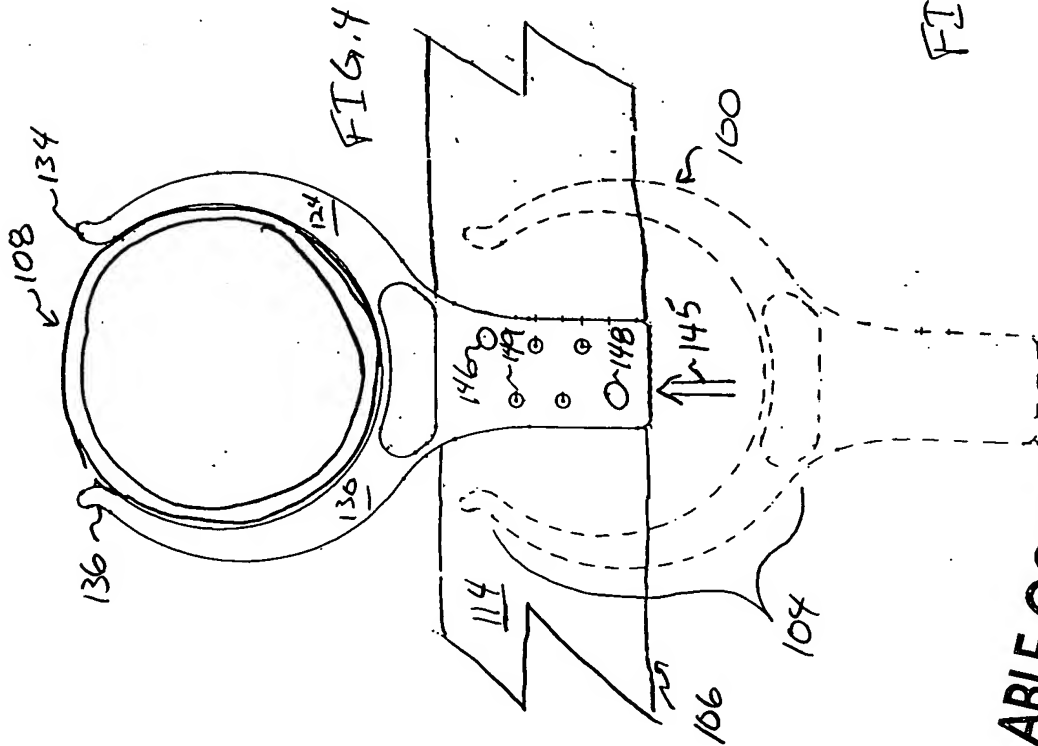
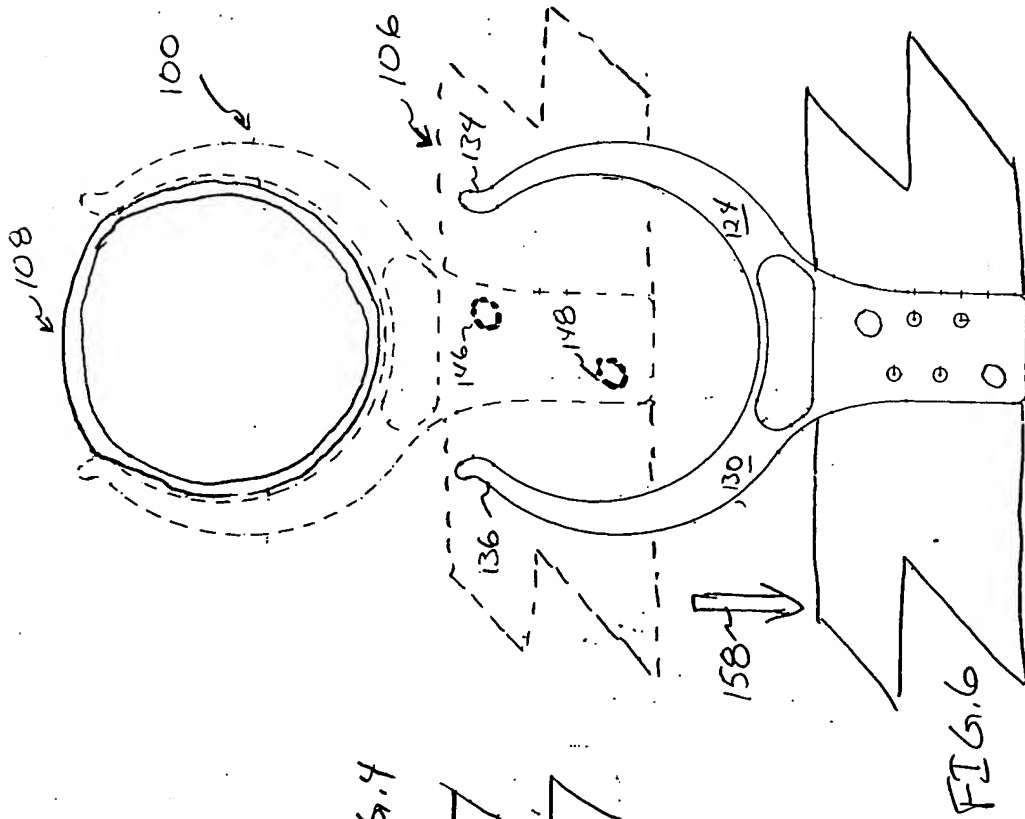


FIG. 3

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